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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,548	02/20/2001	Hana Koutnikova	ST00005	5202
29693	7590	08/04/2004	EXAMINER	
WILEY, REIN & FIELDING, LLP ATTN: PATENT ADMINISTRATION 1776 K. STREET N.W. WASHINGTON, DC 20006			HAYES, ROBERT CLINTON	
			ART UNIT	PAPER NUMBER
			1647	

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/785,548

Applicant(s)

KOUTNIKOVA ET AL.

Examiner

Robert C. Hayes, Ph.D.

Art Unit

1647

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 24 May 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☒ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

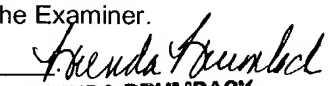
Claim(s) rejected: 32,33,37-42,53 and 59.

Claim(s) withdrawn from consideration: 43-52, 54-58, 60-62 & 39(in part).

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

10. ☒ Other: See Continuation Sheet

  
**BRENDA BRUMBACK**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

Continuation of 2. NOTE: a) amended claim 32 broadens the scope from previously recited SEQ ID NO:2 to 95% identity to SEQ ID NO:2; thereby, requiring further consideration and/or search. b) the issue of new matter is raised as it relates to new proposed claims 63-65, which mixes and matches different concepts and mutations from that described within the specification, as it relates to SEQ ID NO:2.

Continuation of 5. does NOT place the application in condition for allowance because: no where on pages 8-9 of the specification is a definition of "effector" provided, in contrast to Applicants' assertions. Applicants other arguments have already been addressed in previous Office actions, or are directed to claim amendments not entered; thereby, being moot.

Continuation of 10. Other: SEQ ID NOs: 13 & 15 in claim 39 are also directed to nonelected inventions, and must be deleted from elected claim 39, in order to be fully responsive to the final office action. In addition, the specification needs to be updated to accurately describe the SEQ ID NOs being referenced, for the reasons previously made of record. For example, page 4, etc. of the specification recites SEQ ID NOs: 42-45, which are no longer listed within the Raw Sequencing Listing.



**ROBERT C. HAYES, PH.D.**  
**PATENT EXAMINER**